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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,311	06/07/2001	Maurice Ronan Goodman	1-15428	8420

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EXAMINER

GOTTSCHALK, MARTIN A

ART UNIT PAPER NUMBER

3626

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,311

Applicant(s)

GOODMAN ET AL.

Examiner

Martin A. Gottschalk

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/24/2002</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-13 have been examined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown (US Pat# 6,151,586).

A. As per claim 1 Brown discloses a method of incentivising members of a disease management programme to comply with the programme (Brown: col 5, lns 14-16), the method comprising the steps of:

(a) defining a plurality of general programme (Brown: col 12, lns 18-23) areas and a plurality of specific programme areas (Brown: col 12, lns 23-25);

(b) associating each of the plurality of general programme areas with each of the diseases managed by the programme (Brown: col 12, lns 18-23);

(c) associating each of the plurality of specific programme areas only with those diseases managed by the programme to which the specific programme area is determined to be of particular benefit to a member afflicted with the disease (Brown: col 12, Ins 23-25);

(d) awarding points to a member of each of the programme areas in which the member participates, only if the member is afflicted with a disease which is associated with that particular programme area (Brown: col 8, Ins 37-53); and

(e) allocating a reward to the member if the points awarded to the member accumulate to a predetermined amount (Brown: col 23, Ins 45-57).

- B. As per claim 2, Brown discloses a method according to claim 1, wherein points are only awarded to the member if the member participates in all of the programme areas which are associated with the disease or diseases with which the member is afflicted (Brown: Fig. 15A and 15B; col 13, ln 19 to col 14, ln 37; Figs. 10 and 11. Note that both criteria of questions being answered and measurements being within limits must be met if the coupon is to be given.)
- C. As per claim 3, Brown discloses a method according to claim 1 wherein

additional points are awarded to the member if the member participates in all of the programme areas which are associated with the disease or diseases with which the member is afflicted (The Examiner notes the rejection provided for claim 2 above and further notes that a repetition of this process would result in additional coupons being given. Repetition of the process would be expected for patients involved in disease management programs associated with chronic diseases such as the examples of diabetes and asthma cited in the Brown reference).

D. As per claim 4, Brown discloses a method according to claim 1 wherein

the general programme areas are one of more of

diet,

exercise,

smoking and

education (Brown col 16, lns 26-35).

E. As per claim 5, Brown discloses a method according to claim 1 wherein

the specific programme areas are one or more of

blood pressure,

flow volume loop measurement,
influenza vaccine,
pneumococcal vaccine,
cholesterol and
long term glucose control (Brown: Fig. 5A; Fig 5B, item 124; Fig. 6A).

F. As per claim 6, Brown discloses a method according claim 1 further including the steps of:

(a) defining a measurable within at least one of

the general (Brown: col 23, lns 45-57; Figs. 15A and 15B, the Examiner notes that the overall evaluation criteria involves both the compliance questions of Fig 15A, item 412, and the physiological measurements of Fig. 15B, items 420-424) or

specific programme areas (Brown: col 5, ln 66 to col 6, ln 15, i.e. data from one of the monitoring devices)

so that a members performance within said programme area can be ascertained;

(b) defining a minimum level of the measurable, which minimum level indicates a minimum required level of member performance within the at least one programme area (Brown: col 8, 48-53); and

(c) awarding points to a member if the member obtains the defined minimum level of a measurable for the at least one programme area only if the member is afflicted with a disease which is associated with that particular programme area (Brown: col 8, lns 37-53).

G. As per claim 7, Brown discloses a method according to claim 6 further comprising the step of

awarding additional points to the member if the member obtains the minimum level of a measurable for all of the programme areas which are associated with the disease with which the member is afflicted (The Examiner notes the rejection provided for claim 6 above and further notes that a repetition of this process would result in additional coupons being given. Repetition of the process would be expected for patients involved in disease management programs associated with chronic diseases such as the examples of diabetes and asthma cited in the Brown reference).

H. As per steps a, b, and c (i.e. the first three steps) of claims 8, 12, and 13, they are rejected for the same reasons as provided above for the corresponding steps of claim 1.

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I. As per the steps d of claims 8 and 13, they are rejected for the same reasons provided above for claim 6a.

J. As per the steps e of claims 8 and 13, they are rejected for the same reasons provided above for claim 6b.

K. As per step f of claims 8 and 13, they are rejected for the same reasons provided above for claim 6c. Note that the Examiner considers an individual afflicted with a disease to be someone predisposed to the disease.

L. As per step d of claim 12, it is rejected for the same reason provided above for claim 1d. Note that the Examiner considers an individual afflicted with a disease to be someone predisposed to the disease.

M. As per steps g of claims 8, and 13, and claim 12e, they are rejected for the same reasons as provided above for 1e (the "allocating" step).

N. As per claim 9, it is rejected for the same reasons as provided above for claim 6c.

O. Claims 10 and 11 are rejected for the same reasons as provided above for claims 4 and 5.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not relied upon prior art discloses methods for remotely measuring medical parameters (US Pat# 5,549,117); promoting behavioral change (US Pat# 5,722,418); and assessing medical predisposition (US PG Pub# 20020038310).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin A. Gottschalk whose telephone number is (571) 272-7030. The examiner can normally be reached on Mon - Fri 8:30 - 5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MG
08/07/2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER